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Attorneys for Defendants The Gerald and Barbara Keller Family Trust, Gerald E. Keller, in his capacity as Trustee of the Gerald and Barbara Keller Family Trust,

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

THE GERALD AND BARBARA KELLER
FAMILY TRUST, GERALD E. KELLER, in his
capacity as Trustee of the Gerald and Barbara
Keller Family Trust,

Defendants.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04539 (CGM)

**DECLARATION OF GERALD KELLER IN SUPPORT OF DEFENDANTS'
CROSS-MOTION TO DISMISS THE COMPLAINT**

Gerald Keller declares, pursuant to 28 U.S.C. § 1746, that the following is true and correct based upon my personal knowledge and documents I received from Bernard L. Madoff over the years:

1. I opened an investment account with Bernard L. Madoff on January 21, 1997. The agreement I signed was for Mr. Madoff to be my investment adviser. See Ex. 1 annexed hereto [AMF00058476-78; 480-82]. I never signed an agreement with Bernard L. Madoff Investment Securities LLC (the "LLC") which, of course, was not formed until January 2001.

2. On August 2, 1999, I sent a letter to Frank DiPascali requesting as follows:

I would appreciate your changing the name on my account to the following:

Gerald E. Keller, Trustee
(Gerald E. Keller Separate Property)
The Gerald and Barbara Keller Family Trust U/A June 2, 1998

Enclosed is a copy of the trust.

See Ex. 2.

3. Every year I received a Form 1099 from Bernard L. Madoff. Copies of the 1099's are annexed as Ex. 3. I never received a Form 1099 from the LLC.

4. Over the entire life of the account, every request for a withdrawal was sent under my name, not as Trustee but as an individual, with the address of Keller International Publishing Corp. ("Keller Publishing"). See Ex. 4 annexed hereto [AMF00058397-58423; 58429; 58472]. I signed some of the letters requesting withdrawals. Others were signed by Marianne Jannace, an employee of Keller Publishing.

5. The Chief Financial Officer of Keller Publishing for the last 30 years has been Irwin Levine. Pursuant to an oral agreement I had with Mr. Levine, he could draw down funds from the Madoff account whenever Keller Publishing needed working capital. If Keller Publishing needed funds, the procedure was that Mr. Levine would tell me how much money Keller Publishing needed and Marianne Jannace would prepare a withdrawal letter for my signature. She had my authorization to sign my name to the letter, if I was unavailable, and she had my permission to endorse each check received from Madoff. Those checks then were deposited, without exception, in the bank account of Keller Publishing and used for the expenses of Keller Publishing.

6. In 2007 and 2008, Keller Publishing was not doing well financially and that is why Keller Publishing took such large withdrawals in those two years.

7. Every request for a withdrawal asked that the check be mailed to me, not as Trustee but as an individual, at Keller Publishing. *Id.*

8. Every request for a withdrawal asked for confirmation of receipt of the request to the fax number belonging to Keller Publishing. *Id.*

9. Every request for a withdrawal stated as follows; only the amount of the withdrawal varied:

Re: Account 1-ZB314-3

I would like to withdraw \$175,000 from Account No. 1-ZB314-3.

Please confirm receipt of this request to fax number 516-829-9722.

Please mail the check to:

Gerald Keller
Keller International Publishing Corp.
150 Great Neck Road, Room 400
Great Neck, NY 11021

Thank you,

Gerald Keller

Id.

10. All of the withdrawal checks sent by Bernard L. Madoff were payable to Gerald Keller, Trustee, were endorsed by Marianne Jannace either "Gerald Keller" or "Gerald E. Keller," and deposited into the bank account of Keller Publishing. In the two year period before Madoff's confession, from December 11, 2006 through December 11, 2008, every single withdrawal check, as in all prior years, was endorsed by Marianne Jannace, not by me personally. See Ex. 5.

11. The reason all of these withdrawal transactions were identical is that the same procedure was followed in each instance: without exception, the withdrawal checks were sent to me at Keller Publishing and deposited by Keller Publishing into its bank account. The funds were used by Keller Publishing to cover all of its operating expenses.

12. For the entire life of the Madoff account, every single check from Madoff was endorsed with my signature by Marianne Jannace and deposited into the bank account of Keller Publishing.

13. The Trust never had a bank account. Withdrawals from the Madoff account were taken only when Mr. Levine told me the company needed money and 100% of each withdrawal was used solely by Keller Publishing.

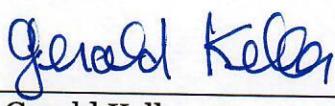
14. In answering the Trustee's interrogatories on June 6, 2017, Defendants wrote as follows in response to Interrogatory # 7:

Identify all Persons who benefited from any Transfer, including, but not limited to, Persons who received or enjoyed the benefit of anything paid for with any funds that were part of any Transfer, and describe how these Persons benefited.

ANSWER: Withdrawals from the Account benefited Keller International Publishing LLC and the taxing authorities.

15. The Trustee never amended the complaint to name Keller Publishing as a defendant despite the fact that it was obvious from the cancelled checks that every check from Madoff was deposited in the bank account of Keller Publishing and despite our express disclosure, in 2017, that Keller Publishing was a beneficiary of the withdrawals from the Madoff account.

August 17, 2021



Gerald Keller